

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KEVIN K. KNAPP
25 El Potrero
Carmel Valley, CA 93294

Registered Nurse License No. **469176**

Respondent

Case No. 2011-676

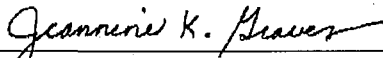
OAH No. 2011030926

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **September 22, 2011.**

IT IS SO ORDERED **August 23, 2011.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **KEVIN K. KNAPP**
12 **25 El Potrero**
13 **Carmel Valley, CA 93294**

14 **Registered Nursing License No. 469176**

15 Respondent.

Case No. 2011-676

OAH No. 2011030926

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Accusation.

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
24 Registered Nursing. She brought this action solely in her official capacity and is represented in
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Char Sachson,
26 Deputy Attorney General.

2. Respondent Kevin K. Knapp (Respondent) is represented in this proceeding by attorney Andrew H. Swartz, Esq., whose address is: 550 Hartnell Street, Suite A-1, Monterey, CA 93940.

3. On or about August 31, 1991, the Board of Registered Nursing issued Registered Nursing License No. 469176 to Respondent. The Registered Nursing License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-676 and will expire on October 31, 2012, unless renewed.

JURISDICTION

4. Accusation No. 2011-676 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 1, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-676 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-676. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

CIRCUMSTANCES IN MITIGATION

CONTINGENCY

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nursing License No. 469176 issued to Respondent Kevin K. Knapp is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no

1 more than 15 days of any address change and shall at all times maintain an active, current license
2 status with the Board, including during any period of suspension.

3 Upon successful completion of probation, Respondent's license shall be fully restored.

4 3. **Report in Person.** Respondent, during the period of probation, shall
5 appear in person at interviews/meetings as directed by the Board or its designated representatives.

6 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
7 or practice as a registered nurse outside of California shall not apply toward a reduction of this
8 probation time period. Respondent's probation is tolled, if and when he resides outside of
9 California. Respondent must provide written notice to the Board within 15 days of any change of
10 residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

12 Respondent shall provide a list of all states and territories where he has ever been licensed
13 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
14 information regarding the status of each license and any changes in such license status during the
15 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
16 license during the term of probation.

17 5. **Submit Written Reports.** Respondent, during the period of probation,
18 shall submit or cause to be submitted such written reports/declarations and verification of actions
19 under penalty of perjury, as required by the Board. These reports/declarations shall contain
20 statements relative to Respondent's compliance with all the conditions of the Board's Probation
21 Program. Respondent shall immediately execute all release of information forms as may be
22 required by the Board or its representatives.

23 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
24 state and territory in which he has a registered nurse license.

25 6. **Function as a Registered Nurse.** Respondent, during the period of
26 probation, shall engage in the practice of registered nursing in California for a minimum of 24
27 hours per week for 6 consecutive months or as determined by the Board.

28 For purposes of compliance with the section, "engage in the practice of registered nursing"

1 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
2 non-direct patient care position that requires licensure as a registered nurse.

3 The Board may require that advanced practice nurses engage in advanced practice nursing
4 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

5 If Respondent has not complied with this condition during the probationary term, and
6 Respondent has presented sufficient documentation of his good faith efforts to comply with this
7 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
8 extension of Respondent's probation period up to one year without further hearing in order to
9 comply with this condition. During the one year extension, all original conditions of probation
10 shall apply.

11 **7. Employment Approval and Reporting Requirements.** Respondent shall
12 obtain prior approval from the Board before commencing or continuing any employment, paid or
13 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
14 performance evaluations and other employment related reports as a registered nurse upon request
15 of the Board.

16 Respondent shall provide a copy of this Decision to his employer and immediate
17 supervisors prior to commencement of any nursing or other health care related employment.

18 In addition to the above, Respondent shall notify the Board in writing within seventy-two
19 (72) hours after he obtains any nursing or other health care related employment. Respondent
20 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
21 regardless of cause, from any nursing, or other health care related employment with a full
22 explanation of the circumstances surrounding the termination or separation.

23 **8. Supervision.** Respondent shall obtain prior approval from the Board
24 regarding Respondent's level of supervision and/or collaboration before commencing or
25 continuing any employment as a registered nurse, or education and training that includes patient
26 care.

27 Respondent shall practice only under the direct supervision of a registered nurse in good
28 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods

1 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
2 approved.

3 Respondent's level of supervision and/or collaboration may include, but is not limited to the
4 following:

5 (a) Maximum - The individual providing supervision and/or collaboration is present in
6 the patient care area or in any other work setting at all times.

7 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
8 care unit or in any other work setting at least half the hours Respondent works.

9 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
10 person communication with Respondent at least twice during each shift worked.

11 (d) Home Health Care - If Respondent is approved to work in the home health care
12 setting, the individual providing supervision and/or collaboration shall have person-to-person
13 communication with Respondent as required by the Board each work day. Respondent shall
14 maintain telephone or other telecommunication contact with the individual providing supervision
15 and/or collaboration as required by the Board during each work day. The individual providing
16 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
17 patients' homes visited by Respondent with or without Respondent present.

18 9. **Employment Limitations.** Respondent shall not work for a nurse's
19 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
20 traveling nurse, or for an in-house nursing pool.

21 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
22 registered nursing supervision and other protections for home visits have been approved by the
23 Board. Respondent shall not work in any other registered nursing occupation where home visits
24 are required.

25 Respondent shall not work in any health care setting as a supervisor of registered nurses.
26 The Board may additionally restrict Respondent from supervising licensed vocational nurses
27 and/or unlicensed assistive personnel on a case-by-case basis.

28 Respondent shall not work as a faculty member in an approved school of nursing or as an

1 instructor in a Board approved continuing education program.

2 Respondent shall work only on a regularly assigned, identified and predetermined
3 worksite(s) and shall not work in a float capacity.

4 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
5 request documentation to determine whether there should be restrictions on the hours of work.

6 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
7 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
8 than six months prior to the end of his probationary term.

9 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
10 Respondent shall submit to the Board the original transcripts or certificates of completion for the
11 above required course(s). The Board shall return the original documents to Respondent after
12 photocopying them for its records.

13 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
14 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
15 amount of \$5,533.75. Respondent shall be permitted to pay these costs in a payment plan
16 approved by the Board, with payments to be completed no later than three months prior to the end
17 of the probation term.

18 If Respondent has not complied with this condition during the probationary term, and
19 Respondent has presented sufficient documentation of his good faith efforts to comply with this
20 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
21 extension of Respondent's probation period up to one year without further hearing in order to
22 comply with this condition. During the one year extension, all original conditions of probation
23 will apply.

24 12. **Violation of Probation.** If Respondent violates the conditions of his
25 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
26 the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

27 If during the period of probation, an accusation or petition to revoke probation has been
28 filed against Respondent's license or the Attorney General's Office has been requested to prepare

1 an accusation or petition to revoke probation against Respondent's license, the probationary
2 period shall automatically be extended and shall not expire until the accusation or petition has
3 been acted upon by the Board.

4 13. **License Surrender.** During Respondent's term of probation, if he ceases
5 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
6 probation, Respondent may surrender his license to the Board. The Board reserves the right to
7 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
8 take any other action deemed appropriate and reasonable under the circumstances, without further
9 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
10 longer be subject to the conditions of probation.

11 Surrender of Respondent's license shall be considered a disciplinary action and shall
12 become a part of Respondent's license history with the Board. A registered nurse whose license
13 has been surrendered may petition the Board for reinstatement no sooner than the following
14 minimum periods from the effective date of the disciplinary decision:

15 (1) Two years for reinstatement of a license that was surrendered for any reason other
16 than a mental or physical illness; or

17 (2) One year for a license surrendered for a mental or physical illness.

18 14. **Physical Examination.** Within 45 days of the effective date of this decision,
19 respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician
20 assistant, who is approved by the Board before the assessment is performed, submit an
21 assessment of the respondent's physical condition and capability to perform the duties of a
22 registered nurse, including a determination as set forth below in Condition 16, "Rule-Out
23 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
24 the Board. If medically determined, a recommended treatment program will be instituted and
25 followed by the respondent with the physician, nurse practitioner, or physician assistant providing
26 written reports to the Board on forms provided by the Board.

27 If respondent is determined to be unable to practice safely as a registered nurse, the
28 licensed physician, nurse practitioner, or physician assistant making this determination shall

1 immediately notify the Board and respondent by telephone, and the Board shall request that the
2 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
3 immediately cease practice and shall not resume practice until notified by the Board. During this
4 period of suspension, respondent shall not engage in any practice for which a license issued by
5 the Board is required until the Board has notified respondent that a medical determination permits
6 respondent to resume practice. This period of suspension will not apply to the reduction of this
7 probationary time period.

8 If the respondent fails to have the above assessment submitted to the Board within the
9 45-day requirement, respondent shall immediately cease practice and shall not resume practice
10 until notified by the Board. This period of suspension will not apply to the reduction of this
11 probationary time period. The Board may waive or postpone this suspension only if significant,
12 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
13 by the respondent to obtain the assessment, and a specific date for compliance must be provided.
14 Only one such waiver or extension may be permitted.

15 **15. Mental Health Examination.** The respondent shall, within 45 days of the
16 effective date of this decision, have a mental health examination including psychological testing
17 as appropriate to determine his/her capability to perform the duties of a registered nurse,
18 including a determination as set forth below in Condition 16, "Rule-Out Substance Abuse
19 Assessment." The examination will be performed by a psychiatrist, psychologist or other
20 licensed mental health practitioner approved by the Board. The examining mental health
21 practitioner will submit a written report of that assessment and recommendations to the Board.
22 All costs are the responsibility of the respondent. Recommendations for treatment, therapy or
23 counseling made as a result of the mental health examination will be instituted and followed by
24 the respondent.

25 If respondent is determined to be unable to practice safely as a registered nurse, the
26 licensed mental health care practitioner making this determination shall immediately notify the
27 Board and respondent by telephone, and the Board shall request that the Attorney General's office
28 prepare an accusation or petition to revoke probation. Respondent shall immediately cease

1 practice and may not resume practice until notified by the Board. During this period of
2 suspension, respondent shall not engage in any practice for which a license issued by the Board is
3 required, until the Board has notified respondent that a mental health determination permits
4 respondent to resume practice. This period of suspension will not apply to the reduction of this
5 probationary time period.

6 If the respondent fails to have the above assessment submitted to the Board within the
7 45-day requirement, respondent shall immediately cease practice and shall not resume practice
8 until notified by the Board. This period of suspension will not apply to the reduction of this
9 probationary time period. The Board may waive or postpone this suspension only if significant,
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
11 by the respondent to obtain the assessment, and a specific date for compliance must be provided.
12 Only one such waiver or extension may be permitted.

13 **16. Rule-Out Substance Abuse Assessment.** If the examiner conducting the
14 physical and/or mental health examination determines that the respondent is dependent upon
15 drugs or alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or
16 alcohol dependence in remission), that might reasonably affect the safe practice of nursing, then
17 the respondent must further comply with the following additional terms and conditions of
18 probation.

19 **(A) Participate In Treatment/Rehabilitation Program For Chemical**
20 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
21 period or shall have successfully completed prior to commencement of probation a Board-
22 approved treatment/rehabilitation program of at least six months duration. As required, reports
23 shall be submitted by the program on forms provided by the Board. If respondent has not
24 completed a Board-approved treatment/rehabilitation program prior to commencement of
25 probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in
26 a program. If a program is not successfully completed within the first nine months of probation,
27 the Board shall consider respondent in violation of probation.
28

1 Based on Board recommendation, each week respondent shall be required to attend at
2 least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
3 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by
4 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent
5 shall be added. Respondent shall submit dated and signed documentation confirming such
6 attendance to the Board during the entire period of probation. Respondent shall continue with the
7 recovery plan recommended by the treatment/rehabilitation program or a licensed mental health
8 examiner and/or other ongoing recovery groups.

9 **(B) Abstain From Use Of Psychotropic (Mood-Altering) Drugs.** Respondent
10 shall completely abstain from the possession, injection or consumption by any route of all
11 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a
12 health care professional legally authorized to do so as part of documented medical treatment.
13 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
14 prescribing health professional, a report identifying the medication, dosage, the date the
15 medication was prescribed, the respondent's prognosis, the date the medication will no longer be
16 required, and the effect on the recovery plan, if appropriate.

17 Respondent shall identify for the Board a single physician, nurse practitioner or
18 physician assistant who shall be aware of respondent's history of substance abuse and will
19 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
20 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
21 assistant shall report to the Board on a quarterly basis respondent's compliance with this
22 condition. If any substances considered addictive have been prescribed, the report shall identify a
23 program for the time limited use of any such substances.

24 The Board may require the single coordinating physician, nurse practitioner, or
25 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
26 addictive medicine.

27 **(C) Submit To Tests And Samples.** Respondent, at his expense, shall participate in
28 a random, biological fluid testing or a drug screening program which the Board approves. The

1 length of time and frequency will be subject to approval by the Board. The respondent is
2 responsible for keeping the Board informed of respondent's current telephone number at all
3 times. Respondent shall also ensure that messages may be left at the telephone number when
4 he/she is not available and ensure that reports are submitted directly by the testing agency to the
5 Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by
6 the program and the respondent shall be considered in violation of probation.

7 In addition, respondent, at any time during the period of probation, shall fully
8 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
9 tests and samples as the Board or its representatives may require for the detection of alcohol,
10 narcotics, hypnotics, dangerous drugs, or other controlled substances.

11 If respondent has a positive drug screen for any substance not legally authorized and
12 not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
13 Board files a petition to revoke probation or an accusation, the Board may suspend respondent
14 from practice pending the final decision on the petition to revoke probation or the accusation.
15 This period of suspension will not apply to the reduction of this probationary time period.

16 If respondent fails to participate in a random, biological fluid testing or drug
17 screening program within the specified time frame, the respondent shall immediately cease
18 practice and shall not resume practice until notified by the Board. After taking into account
19 documented evidence of mitigation, if the Board files a petition to revoke probation or an
20 accusation, the Board may suspend respondent from practice pending the final decision on the
21 petition to revoke probation or the accusation. This period of suspension will not apply to the
22 reduction of this probationary time period.

23 **(D) Therapy Or Counseling Program.** Respondent, at his expense, shall
24 participate in an on-going counseling program until such time as the Board releases him from this
25 requirement and only upon the recommendation of the counselor. Written progress reports from
26 the counselor will be required at various intervals.

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DATED:

KEVIN K. KNAPP

DATED:

Andrew H. Stuart

ENDORSEMENT

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Supervising Deputy Attorney General
Cheryl

CHAR SACHSON
Deputy Attorney General
Attorneys for Complainant

14

Exhibit A

Accusation No. 2011-676

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2011-676

12 **KEVIN K. KNAPP**
25 El Potrero
13 Carmel Valley, CA 93924

ACCUSATION

14 **Registered Nursing License No. 469176**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about August 31, 1991, the Board of Registered Nursing issued Registered
23 Nursing License Number 469176 to Kevin K. Knapp (Respondent). The Registered Nursing
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on October 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

..."

6. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or

1 administer to another; any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
3 defined in Section 4022.

4 . . .
5 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
6 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
7 section."

8 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license.

11 9. Section 118, subdivision (b), of the Code provides that the expiration of a license
12 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
13 within which the license may be renewed, restored, reissued or reinstated.

14 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licensee found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 DRUGS

19 11. Fentanyl is a brand of narcotic, a Schedule II controlled substance as designated by
20 Health and Safety Code section 11055(c)(8), and is a dangerous drug per Code section 4022. It is
21 used for persistent moderate to severe chronic pain.

22 FACTUAL BACKGROUND

23 12. On or about August 28, 2008, while employed as a registered nurse in the Cardiac
24 Catheterization Lab at Community Hospital of the Monterey Peninsula, Respondent pocketed an
25 unused "wasted" Fentanyl syringe. When confronted by his supervisor, Respondent produced the
26 syringe, wrapped in gauze, from his pocket. Respondent was immediately placed on
27 administrative leave and subsequently resigned from Community Hospital of the Monterey
28 Peninsula.

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FIRST CAUSE FOR DISCIPLINE
(ILLEGALLY OBTAIN OR POSSESS NARCOTICS)

13. Respondent is subject to disciplinary action under sections 2761(a) and/or 2762(a) in that he illegally obtained or possessed Fentanyl on August 28, 2008, as alleged above in paragraph 12.

SECOND CAUSE FOR DISCIPLINE
(INCONSISTENT MEDICAL RECORDS)

14. Respondent is subject to disciplinary action under sections 2761(a) and/or 2761(e) in that he caused to be falsified, or caused grossly incorrect, grossly inconsistent, or unintelligible entries to be entered in a hospital record pertaining to controlled substances as alleged above in paragraph 12.

THIRD CAUSE FOR DISCIPLINE
(GROSS NEGLIGENCE)

15. Respondent is subject to disciplinary action under section 2761(a)(1) in that he was grossly negligent when he failed to dispose of Fentanyl on August 8, 2008 as alleged above in paragraph 12.

FOURTH CAUSE FOR DISCIPLINE
(UNPROFESSIONAL CONDUCT)

16. Respondent is subject to disciplinary action under section 2761(a) in that he acted unprofessionally when he failed to dispose of Fentanyl on August 8, 2008 as alleged above in paragraph 12.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

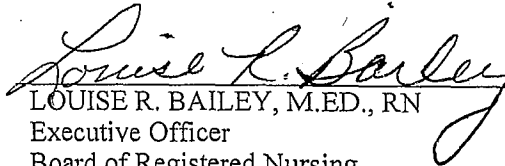
1. Revoking or suspending Registered Nursing License Number 469176, issued to Kevin K. Knapp;

1 2. Ordering Kevin K. Knapp to pay the Board of Registered Nursing the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
5
6

7
8 DATED: _____

2/1/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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